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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2005-145

12 TERRY LEE GASSNER
a.k.a., TERRY LEE PAYSENO
13 a.k.a., TERRY LEE GROSS
6349 Wine Ct.
14 Alta Loma, CA 91737

FIRST AMENDED ACCUSATION

15 Registered Nursing License No. 202926

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
22 (Board), Department of Consumer Affairs.

23 2. On or about September 30, 1969, the Board of Registered Nursing issued
24 Registered Nursing License No. 202926 to Terry Lee Gassner, also known as Terry Lee Payseno,
25 and Terry Lee Gross (Respondent). The Registered Nursing License was in full force and effect
26 at all times relevant to the charges brought herein and will expire on April 30, 2009, unless
27 renewed.

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JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"(f) Conviction of a felony or of any offense substantially related to the

qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 490 of the Code states:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crimes)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent has been convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse, as follows:

A. On or about September 7, 2004, Respondent was convicted by the court on a plea of nolo contendere for violating one count of Penal Code section 148, subdivision (a) (obstruction or resisting a public officer), a misdemeanor, in the Superior Court of San Bernardino, County of San Bernardino, State of California, Rancho Cucamonga Judicial District, case entitled *People v. Terry Gassner*, Case No. MWV087253.

B. The circumstances underlying the conviction are that on or about, December 18, 2003, Respondent contacted the San Bernardino County Sheriff's Department and reported a crime. When the officers arrived, upon contact with Respondent, she was observed in the driveway of her residence under the influence of an alcoholic beverage. After she was placed under arrest, she resisted the officer by refusing to be taken into custody.

C. On or about March 9, 2000, Respondent was convicted by her plea of guilty for violating Penal Code section 653M, subdivision (b) (annoying telephone calls), a misdemeanor, in the Superior Court of San Bernardino, County of San Bernardino, State of California, Rancho Cucamonga Judicial District, case entitled *People v. Terry Lee Gassner*, Case No. MWV057289.

D. On or about November 3, 1999, Respondent unlawfully made repeated telephone calls with the intent to annoy another at the residence of S.I.G.¹ Respondent was sentenced to three (3) years probation and ninety (90) days in jail.

E. On or about June 4, 1998, Respondent was convicted by the court on a plea of nolo contendere for violating two counts of Penal Code section 653M, subdivision (b)

1. The individual's initials are being used to protect his or her privacy.

(annoying telephone calls), a misdemeanor, in the Superior Court of San Bernardino, County of San Bernardino, State of California, Rancho Cucamonga Judicial District, case entitled *People v. Terry Lee Gassner*, Case No. MWV42960.

F. On or about, October 21, 1997 and January 8, 1998, Respondent unlawfully made repeated telephone calls with the intent to annoy another at the residence of S.I.G.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional conduct)

12. Respondent is subject to disciplinary action under Code section 2761 in that Respondent committed acts of unprofessional conduct as set forth in paragraph 11 above. In addition, Respondent is subject to disciplinary action under Code section 2761 as a result of her conduct described as follows:

a. On or about 2002, Respondent made numerous threatening and harassing telephone calls to various employees at HRN Services, Inc., a nurse registry, and to various local hospitals which employed her. Further, Respondent continued to make telephone calls to employees at HRN Services, Inc. after being asked not to telephone the HRN Services, Inc. office.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Registered Nursing License No. 202926, issued to Terry Lee Gassner, also known as Terry Lee Payseno, and Terry Lee Gross;

2. Ordering Terry Lee Gassner to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;


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3. Taking such other and further action as deemed necessary and proper.

DATED: 8/7/07


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
State of California
Complainant

LA2004601920